

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, FEBRUARY 18, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of February 18, 2009, was called to order by Mayor Hansen at 6:00 p.m.

Present: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: Council Member Hitchcock

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6

C-3 Adjourn to Closed Session

At 6:00 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matter.

The Closed Session adjourned at 6:48 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:02 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following action.

Item C-2 (a) was discussion only and is agendized as a Regular Calendar item on the agenda.

A. Call to Order / Roll call

The Regular City Council meeting of February 18, 2009, was called to order by Mayor Hansen at 7:02 p.m.

Present: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: Council Member Hitchcock

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Pastor Marianne Weethee, Heartland Community Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations - None

E. Consent Calendar (Reading: Comments by the Public: Council Action)

Council Member Mounce made a motion, second by Mayor Pro Tempore Katzakian, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

E-1 Receive Register of Claims in the Amount of \$2,585,282.76 (FIN)

Claims were approved in the amount of \$2,585,282.76.

E-2 Approve Minutes (CLK)

The minutes of February 3, 2009 (Shirtsleeve Session), February 4, 2009 (Regular Meeting), February 10, 2009 (Shirtsleeve Session), and February 10, 2009 (Special Meeting) were approved as written.

E-3 Approve Issuance of Request for Proposals and Authorize Advertisement to Provide Ground Water Monitoring/Reporting Services (PW)

Approved the issuance of request for proposals and authorized advertisement to provide ground water monitoring/reporting services.

E-4 Adopt Resolution Awarding Contract for Wastewater Infrastructure Replacement Program (Project No. 4) to Pipenology, Inc., of Rocklin (\$845,260), and Appropriating Funds (\$990,000) (PW)

Adopted Resolution No. 2009-17 awarding the contract for Wastewater Infrastructure Replacement Program (Project No. 4) to Pipenology, Inc., of Rocklin, in the amount of \$845,260, and appropriating funds in the amount of \$990,000.

E-5 Adopt Resolution Authorizing Additional Task Orders with Treadwell & Rollo Regarding PCE/TCE Cleanup and Appropriating Funds (\$261,000) (PW)

Adopted Resolution No. 2009-18 authorizing additional task orders with Treadwell & Rollo regarding PCE/TCE cleanup and appropriating funds in the amount of \$261,000.

E-6 Accept Improvements under Contracts for Heating, Ventilation, and Air Conditioning Equipment for Lodi Public Library (PW)

Accepted improvements under the "Heating, Ventilation, and Air Conditioning Equipment for Lodi Public Library" contracts.

E-7 Adopt Resolution Increasing Parking Fines for both the Lodi Municipal Code and California Vehicle Code Sections (PD)

This item was pulled by Council Member Johnson for further discussion. Council Member Johnson stated that he recently noticed that the City's parking citations are being processed through an outside agency. Mr. Johnson requested that Deputy City Manager Ayers look into the possibility of paying for the citations electronically through the City directly, as is the case with Finance and Electric Utility payments, and provide information to the Council regarding the relevant costs and options.

Council Member Johnson made a motion, second by Council Member Mounce, to adopt Resolution No. 2009-19 increasing parking fines for both the Lodi Municipal Code and California Vehicle Code Sections.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

E-8 Set Public Hearing for March 4, 2009, to Consider the Building Division Cost Analysis Study and Adopt Fee Schedule (CD)

Set public hearing for March 4, 2009, to consider the Building Division Cost Analysis Study and adopt fee schedule.

E-9 Set Public Hearing for March 18, 2009, to Adopt Federal Fiscal Year 2009 Program of Transit Projects (PW)

Set public hearing for March 18, 2009, to adopt Federal Fiscal Year 2009 Program of Transit Projects.

F. Comments by the Public on Non-Agenda Items THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Kathy Harris spoke in favor of Measure W based on the possible benefit to small businesses, including her own, and similarities of the benefits that have occurred in the city of Manteca.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Mounce commended Ashley Bedi on receiving the prestigious "Youth of the Year" award and provided an overview of her positive efforts in the community.

Council Member Johnson provided an overview of an October 8 letter from Chris Norby referring to the positive effect redevelopment has had on the baseball field community in and around Angel

Stadium in Anaheim without the use of eminent domain. Mr. Johnson also commended the Westlake Dry Cleaners for providing services to unemployed residents preparing for interviews.

Mayor Hansen encouraged all citizens to vote on March 3, 2009, at the Special Election for Measure W. Mr. Hansen stated the Celebration on Harvest art piece was coming along well and will be a nice addition to the City. Mr. Hansen also reported on his attendance at the San Joaquin Council of Governments Executive Committee and Project Delivery meetings and the Northern California Power Agency Law and Regulatory meeting where the topics of discussion continued to be the shortfalls in the respective budgets and the ongoing efforts to make up for those shortfalls through cuts.

H. Comments by the City Manager on Non-Agenda Items

City Manager King reported that the City Council appointees are offering an unpaid furlough day and waiver of deferred compensation match for the next 16 months to assist with the budget. Mr. King also provided a brief overview of Health and Safety Code Section 33675, which sets forth the redevelopment related reporting requirements with the State Controller's office.

I. Public Hearings - None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments - None

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Receive 2008 Annual Report from the Lodi Animal Advisory Commission (PD)

City Manager King briefly introduced the subject matter of the Annual Report.

Lt. Bryan Noblett briefly introduced Commission Member Rose Hilliard to present the Annual Report for 2008 for the Lodi Animal Advisory Commission.

Commission Member Hilliard provided a PowerPoint presentation regarding the Annual Report for 2008 of the Lodi Animal Advisory Commission. Ms. Hilliard specifically discussed Commission background, powers and duties, accomplishments for the first year, findings on animal services, euthanasia statistics, dispositions of dogs and cats, shelter hours of operation, holdings areas and operations at the shelter, spay and neuter opportunities, funding concerns, ten essential programs and services, need for written policies, and recommendations for Council action regarding the feral cat management program, additional staffing for various tasks at the shelter, and Commission goals for 2009.

In response to Council Member Johnson, Animal Services Supervisor Dianne Barney stated there are animals received from outside the City from time to time but those occasions are far and few in between.

In response to Council Member Mounce, Lt. Noblett stated the grates previously approved by the City Council are due to be installed in the next two to three weeks. Lt. Noblett also stated the funding has been allocated for the other repairs suggested by the Council previously and staff is moving forward on that as well.

In response to Mayor Hansen, Ms. Hilliard stated one of the findings of the Commission is that the entrance signage to the shelter is confusing and there are no specific suggestions regarding the same at this time.

In response to Mayor Hansen, Ms. Hilliard stated the effective time of a targeted spay and neuter program is dependent upon efforts put into program initially. She provided the example of the city of San Francisco, stating results are probably visible within one to two years and a community needs to sterilize 70% of the community's animals to see actual results.

Council Member Mounce and Mayor Hansen commended the Commission on their efforts in presenting the annual report. Mayor Hansen suggested that staff provide a status report in next year's annual report on the ongoing improvements occurring at the animal shelter, such as the grating.

K-2 2008-09 Mid-Year Budget Adjustments (CM)

a) Adopt Resolution Approving Fiscal Year 2008-09 Mid-Year Budget Adjustments

b) Adopt Resolution Approving: 1) Modifications to Memorandums of Understanding (MOU) for Police Officers Association of Lodi, Lodi Police Dispatcher's Association, and Lodi Police Mid-Management Organization; 2) Modifications to MOU for Lodi Professional Firefighters; 3) Modifications to Fire Mid-Management Statement of Benefits; 4) Modifications to MOU for Lodi City Mid-Management Association; and 5) Modifications to Unrepresented Confidential Benefits and to Executive Management Contracts and Statement of Benefits; and Further approve Modifications to MOUs for AFSCME Council 57 Local 146-AFL-CIO General Services and Maintenance & Operations and International Brotherhood of Electrical Workers Should an Agreement be Reached Prior to Council Meeting

c) Authorize City Manager to Post Cost to Grant Two Years Service Credit to Specified Classifications Under Government Code Section 20903

City Manager King provided a brief introduction to the subject matter of the fiscal year 2008-09 mid-year budget.

City Manager King and Deputy City Manager Ayers provided a PowerPoint presentation regarding the Fiscal Year 2008-09 mid-year budget. Specific topics of discussion included net equity extraction comparisons with disposable income comparisons, annual percentage changes in retail sales, major industry groups variances, job losses in recent recessions, unemployment rates for the City, County, and State, changes in payroll employment, General Fund shortfall of \$1,440,077, Police Department variance for \$356,000, Fire Department variance for \$442,555, employee contributions for \$596,350, management adjustments for \$481,970, financial goals and targets, General Fund statements, Community Development Fund statements, overview of cooperation from bargaining groups including the Police Officers Association, Police Mid-Management, Police Dispatchers, Lodi Professional Firefighters, Fire Mid-Management, International Brotherhood of Electrical Workers (IBEW), General Services and Maintenance and Operators, City Mid-Management Association, Management/Confidential, and Executive Management appointees, the Service Credit Program, Budget and Finance Committee recommendations, and summary of the actions requested.

In response to Council Member Mounce, Mr. King stated the City Council policy is 15% minimum General Fund reserves, which is industry standard, and one reason to have that amount is to support the City in the event of a major catastrophe. Mr. King stated it is also based on what is

needed operationally for the City for three months and is an amount that is needed for cash flow purposes.

In response to Council Member Johnson, Mr. King stated that, with respect to an Electric Utility reserve, the City Council previously considered a report and set the reserve for \$13 million, which staff saw as a benchmark position. Mr. King stated now the reserve for Electric Utility is at that figure, there will need to be a consideration of whether the City needs to go beyond that figure, and if so, in what amount, and what will that be based on.

In response to Council Member Johnson, Mr. King stated from staff's perspective and for the rating agency purposes, the \$13 million figure for a \$70 million asset is probably low. Electric Utility Director George Morrow stated the reserve amount for the Electric Utility will not get to the \$13 million figure in the current year because, while the first quarter numbers are high, they will level out over the next few quarters and there are costs with the new Lodi Energy Center.

In response to Council Member Mounce, Mr. Morrow stated the Energy Cost Adjustment is recovering costs only and not contributing to the reserves. Council Member Mounce requested information about the industry standard for electric utility reserves.

In response to Council Member Johnson, Mr. Morrow stated it is important to keep the rating agencies happy with the reserves as currently the Electric Utility has a triple B+ with Fitch and there is room for improvement. Mr. King also stated the letter of credit remains in place for the rating purposes.

Brad Doell, on behalf of the Lodi Professional Firefighters, spoke regarding concerns about service levels to the public, including response times, as a result of overtime reductions and proposed staff reductions from 15 to 12. In response to Council Member Johnson, Mr. Doell stated he does not have an alternative to the proposal but did want to bring forth the concerns. In response to Mayor Hansen, Mr. Doell stated that he understood that the public would see service levels affected through all departments as the proposed cost savings measures are implemented. In response to Council Member Mounce, Mr. Doell stated that, while there is a call back option for emergencies, it is voluntary with a low level of participation and rank is relevant for operating equipment.

Peter Iturraran, representing Lodi Professional Firefighters, stated he would like to reiterate the comments provided by Brad Doell. He also stated he was concerned about the possible negative effects on the levels of service provided to the public in light of the proposed recommendations, but appreciates the difficulty of the decision. In response to Council Member Johnson, Mr. Doell and Mr. Iturraran stated the mutual aid, which is based on call stacking, is effective at times; although, the specialization on a particular call out may be lacking. They stated automatic aid works automatically upon dispatch, rather than upon the request of an agency, and often results in service being provided to those outside the jurisdiction.

In response to Council Member Johnson, Mr. Doell stated the firefighters were not in favor of the initial overtime reductions proposed previously and the plan to hire more people to reduce those hours.

Mayor Hansen requested that a status report be provided at the next Council meeting as to the funding for the Downtown Lodi Business Partnership and the San Joaquin Partnership in light of the recommendations from the Budget and Finance Committee.

Council Member Mounce asked that it be noted for the record that she will not be able to support the recommendations as proposed unless the change regarding the staffing levels from 15 to 12 for the Fire Department only reflect the current budget year and not the next year also.

In response to Council Member Johnson, Mr. King stated the projections for the next budget year reflect a shortfall of approximately 8%.

Mayor Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-20 approving: 1) modifications to Memorandums of Understanding (MOU) for Police Officers Association of Lodi, Lodi Police Dispatcher's Association, and Lodi Police Mid-Management Organization; 2) modifications to MOU for Lodi Professional Firefighters; 3) modifications to Fire Mid-Management Statement of Benefits; 4) modifications to MOU for Lodi City Mid-Management Association; 5) modifications to unrepresented Confidential benefits and to Executive Management contracts and Statement of Benefits; and 6) modifications to MOUs for AFSCME Council 57 Local 146-AFL-CIO General Services and Maintenance & Operations and IBEW.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Mounce

Absent: Council Member Hitchcock

Mayor Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-21 approving fiscal year 2008-09 mid-year budget adjustments.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Mounce

Absent: Council Member Hitchcock

Mayor Hansen made a motion, second by Council Member Johnson, to authorize the City Manager to post cost to grant two years service credit to specified classifications under Government Code Section 20903.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

K-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Phase I Demolition Work at the Grape Bowl, 221 Lawrence Avenue (PR)

City Manager King briefly introduced the subject matter of the proposed demolition at the Grape Bowl.

Interim Parks and Recreation Director Jim Rodems provided an overview of the demolition process, the availability of funding sources through the County, and the timeline for demolition commencing April 1 for funding purposes.

In response to Mayor Hansen, Mr. Rodems stated Phase I is estimated at the high end at approximately \$2 million not taking into account the current bid environment and components may be adjusted to pricing based on the actual bid received.

In response to Mayor Hansen, Mr. Rodems stated there is approximately \$740,000 in funds already and the current action does not involve project approval, but only putting the costs on the street for demolition purposes.

In response to Council Member Johnson, Mr. Rodems stated the proposed action helps get the project shovel ready for the April 1 date for funding and to get the City into a position to be able to make some decisions on the project. Mr. King stated they will confirm the funding availability with the County.

Eric Vanderlans spoke regarding his concerns about the ability to finish the project once it is started and the usefulness of the money being spent on something other than the Grape Bowl facility. In response to Mr. Vanderlans, Mayor Hansen stated the money from the County must be spent on the Grape Bowl because it is a part of the agreement.

Ann Cerney spoke regarding her concerns about California Environmental Quality Act (CEQA) application and potential costs for the overall project. City Attorney Schwabauer stated CEQA would not apply to the proposed action because it is a minor overall improvement and must be done for Americans with Disabilities Act (ADA) compliance. Mr. Schwabauer also stated the pre-commitment case law would not apply because the City does not have the money to commit itself to the project and is therefore not doing so.

City Manager King provided an overview of the proposed action before the City Council at the current time and specifically discussed the pending approval of the plans and specifications for demolition related to ADA improvements, Community Development Block Grant funding from the City and County for ADA accessibility, the City's obligation to make the facility handicap accessible or in the alternative surplus the property, the volunteer committee's money being available for general usage on the project, and the relevant timing of the action to capture the County funding.

In response to Mayor Hansen, Mr. Rodems confirmed the amount raised by the volunteer committee is approximately \$118,000.

In response to Mayor Hansen, Mr. Rodems confirmed that the \$2 million figure is to address the ADA improvements as previously approved by the City Council, a proposal for a synthetic field was going through the Parks and Recreation Commission to make the field accessible all year round at approximately \$3 million, and the goal is to turn the facility into a self-funding revenue generating facility.

Council Member Mounce stated she will support the recommended action because it is for ADA improvements only.

Mayor Hansen made a motion, second by Mayor Pro Tempore Katzakian, to approve the plans and specifications and authorize advertisement for bids for Phase I demolition work at the Grape Bowl, 221 Lawrence Avenue.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

K-4 Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$107,549) (CA)

Council Member Mounce made a motion, second by Mayor Pro Tempore Katzakian, to approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$107,549, as further detailed in the staff report.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

L. Ordinances

L-1 Ordinance No. 1819 Entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal (Adopt) Code by Repealing and Reenacting Chapter 13.12, 'Sewer Service,' in its Entirety" (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to (following reading of the title) waive reading of the ordinance in full and adopt and order to print Ordinance No. 1819 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code by Repealing and Reenacting Chapter 13.12, 'Sewer Service,' in its Entirety," which was introduced at a regular meeting of the Lodi City Council held February 4, 2009.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 10:21 p.m.

ATTEST:

Randi Johl
City Clerk